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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/605,595	10/10/2003	Kevin W. Freeman	71198-0062	2594
20915	7590	06/13/2006	EXAMINER	
MCGARRY BAIR PC 171 MONROE AVENUE, N.W. SUITE 600 GRAND RAPIDS, MI 49503			GILBERT, WILLIAM V	
			ART UNIT	PAPER NUMBER
			3635	

DATE MAILED: 06/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/605,595	FREEMAN ET AL.	
	Examiner	Art Unit	
	William V. Gilbert	3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-68 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 54 and 56-66 is/are allowed.
- 6) ☒ Claim(s) 1-3,25,30,31,33,44,47-53 and 3437 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Regarding Claim 54, Applicant's argument addressing its being a generic claim is found persuasive and is rejoined for examination purposes.

Applicant's election with traverse of Species 3 in the reply filed on May 10, 2006, is acknowledged. The traversal is on the ground(s) that the species are not independent or distinct. This is not found persuasive because Applicant's argument is believed to be in error. Applicant states in paragraph 3 of the Remarks section, "Species 1-6 have the unifying concept of a connector strap...a hinge portion in the web..." Examiner believes this argument unpersuasive because the "hinge portion" is not introduced to the connector strap until Claim 4. Furthermore, upon review of the Figures submitted with the application, only Species 5 contains a hinge portion. It is therefore the conclusion of the Examiner that the species are indeed independent and distinct.

The requirement is still deemed proper and is therefore made FINAL.

As noted in the reply filed May 10, 2006, Applicant elected Species 3, which in both the specification filed by the Applicant and the Restriction issued by the Examiner dated March

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17, 2006, covered Figures 30-33. Applicant elected claims to cover additional species (e.g. in elected Claim 4, Applicant states the web includes a hinge portion); therefore, the Examiner will only examine claims that correspond to Species 3. As a result, the following claims will not be examined and considered non-elected: 4-13, 14-18, 19-24, 26-29, 32, 35, 36, 45, 46, 55, 67, and 68. The following claims will be examined: 1-3, 25, 30, 31, 33, 34, 37-44, 47-54, and 56-66.

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the nail plate in Claim 37, depending from Claim 33, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered

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and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

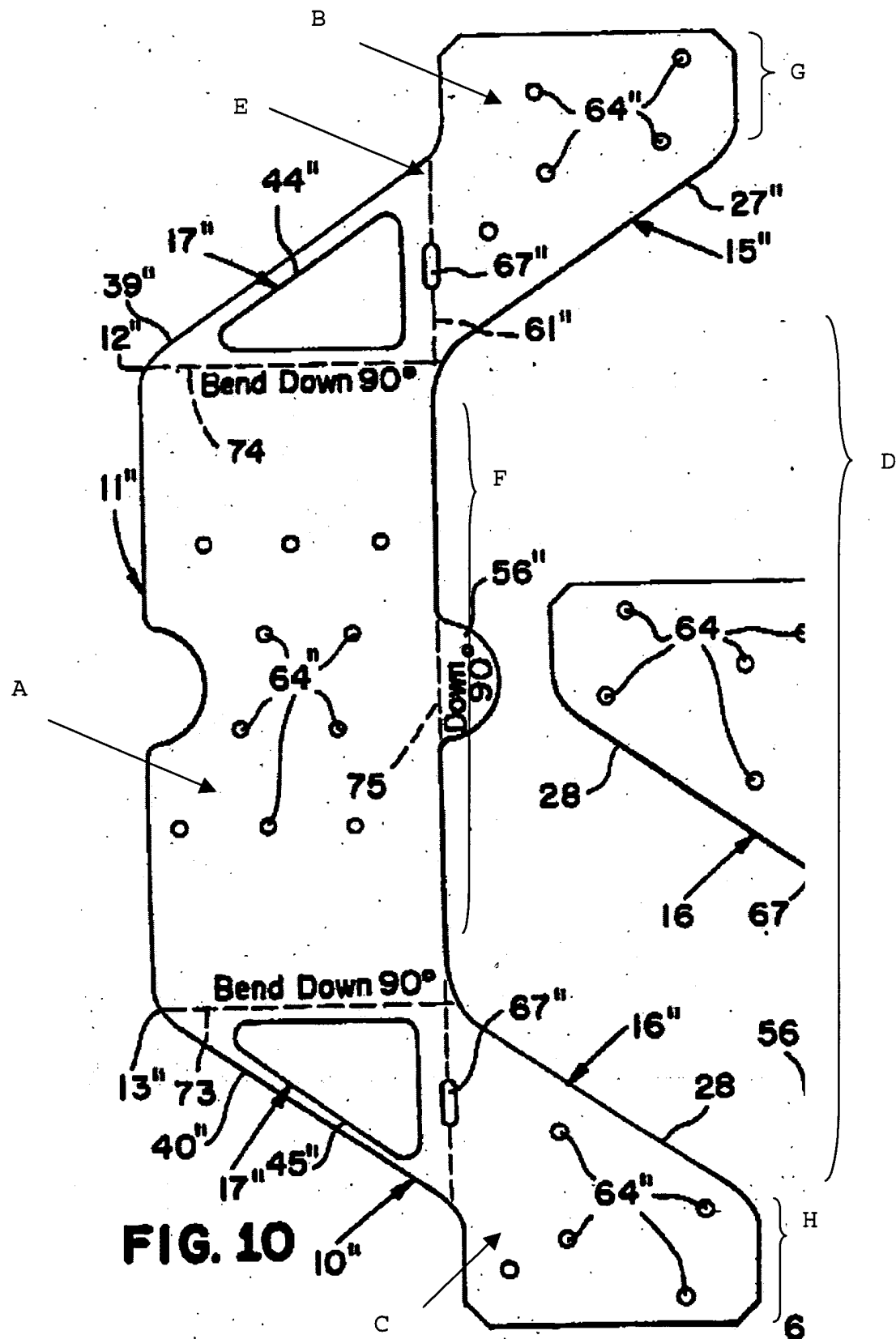
1. **Claims 1, 2, 3, 25, 30, 31, 33, 34, 38, 39, 43, 44, 48, 49, 51, 52 and 53 are rejected under 35 U.S.C. 102(b) as being anticipated by Colonias et al. (U.S. Patent No. 5, 109,646).**

Regarding Claim 1, Colonias discloses a connector strap (Figure 10) having a web (see element "A" from attached Figure 10 of Colonias below), a first sidestep portion (see element "B"

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from attached Figure 10 of Colonias below) extending laterally from the first end of the web, a second sidestep portion (see element "C" from attached Figure 10 of Colonias below) extending laterally from the second end of the web, and the first sidestep portion and the second sidestep portion cooperate to form a recess (see element "D" from attached Figure 10 of Colonias below). While Examiner notes that Figure 10 from Colonias is not in the final formation, it meets all the elements of the Claim and the invention as shown in Figure 10 of Colonias is capable of performing equally as well with the Applicant's invention.

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Regarding Claim 2, Colonias discloses the web (A, above) as elongated.

Regarding Claim 3, Colonias discloses the web (A, above) as planar.

Regarding Claim 25, only the connecting strap is being claimed. The phrase "wherein a third truss member is positioned within the recess of a connector to allow the connector to wrap around the third chord member when mounting the first and second chord members together with the connector," is a statement of intended use of the claimed invention and must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Regarding Claim 30, Colonias discloses the first and second sidestep portions (B and C respectively, above) extending generally parallel to the web (A, above) and interconnected to the web in an offset manner by a laterally extending connecting web (E, above).

Regarding Claim 31, Colonias discloses the laterally extending connecting web (E, above) oriented angularly with respect to the web (see Figure 10 from Colonias, generally).

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Regarding claim 33, Colonias discloses the web (A above) including at least one mounting portion (F, above).

Regarding Claim 34, Colonias discloses the mounting portion comprising an aperture (64").

Regarding Claim 38, Colonias discloses the first sidestep portion (B, above) having at least one mounting portion thereon (G, above).

Regarding Claim 39, Colonias discloses the mounting portion comprising an aperture (64").

Regarding Claim 43, Colonias discloses the second sidestep portion (C, above) having at least one mounting portion thereon (H, above).

Regarding Claim 44, Colonias discloses the mounting portion comprising an aperture (64").

Regarding Claim 48, Colonias discloses that the web (A, above) is deformable (12, 13) between a first linear position and a second final mounting position.

Regarding Claim 49, only the connector strap is being claimed. The phrase "wherein the first sidestep portion has an integral mounding portion thereon and the second sidestep portion has a field mounting thereon," is a statement of intended use of the claimed invention and must result in a structural difference between the claimed invention and the

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prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Regarding Claim 51, only the connector strap is being claimed. The phrase "wherein the integral mounting portion of the first sidestep portion is integrally mounted to a first chord member of the truss at the time of the manufacture of the truss, and the second sidestep portion is extended from the first truss member in a position adapted to receive a second chord member of the truss," is a statement of intended use of the claimed invention and must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Regarding Claim 52, only the connector strap is being claimed. The phrase, "wherein the second truss member is mounted to the second sidestep portion of the connector when the truss is erected in the field," is a statement of intended use of the claimed invention and must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the

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prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Regarding Claim 53, only the connector strap is being claimed. The phrase, "wherein a third truss member is positioned within the recess of the connector to allow the connector to wrap around the third chord member when mounting the first and second chord members together with the connector," is a statement of intended use of the claimed invention and must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for

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establishing a background for determining obviousness under 35

U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 37, 40, 41, 42, 47 and 50 are rejected under 35

U.S.C. 103(a) as being unpatentable over Colonias et al. in view of Williams (U.S. Patent No. 6,171,043 B1).

Regarding Claim 37, Colonias discloses the claimed invention except that the mounting portion of the web (from Claim 33) comprises a nail plate. Williams discloses a connecting strap (10) where the mounting portion of the web comprises a nail plate (35, 37). It would have been obvious at the time the invention was made to a person having ordinary skill in the art to combine the nail plate in Williams with the mounting portion of the web in Colonias. One would have been motivated to make such a modification because nail plates would omit the need to separately carry fasteners (e.g. nails) and would simplify attaching the strap to the item to be connected.

Regarding Claim 40, Colonias discloses the claimed invention except that the mounting portion of the first sidestep portion (from Claim 38) comprises an integral connector.

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Williams discloses a connecting strap (10) where the mounting portion of the first sidestep portion (30) comprises an integral connector (35, 37). It would have been obvious at the time the invention was made to a person having ordinary skill in the art to combine the integral connectors in Williams with the mounting portion of the first sidestep portion in Colonias. One would have been motivated to make such a modification because integral connectors would omit the need to separately carry fasteners (e.g. nails) and would simplify attaching the strap to the item to be connected.

Regarding Claim 41, Colonias discloses the claimed invention except that the mounting portion of the first sidestep portion (from Claim 38) comprises a drivable connector.

Williams discloses a connecting strap (10) where the mounting portion of the first sidestep portion comprises a drivable connector (35, 37). It would have been obvious at the time the invention was made to a person having ordinary skill in the art to combine the drivable connector in Williams with the mounting portion of the first sidestep in Colonias. One would have been motivated to make such a modification because drivable connectors would omit the need to separately carry fasteners (e.g. nails) and would simplify attaching the strap to the item to be connected.

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Regarding Claim 42, Colonias discloses the claimed invention except that the mounting portion of the first sidestep portion (from Claim 38) comprises a nail plate. Williams discloses a connecting strap (10) where the mounting portion of the first sidestep portion (30) comprises a nail plate (35, 37). It would have been obvious at the time the invention was made to a person having ordinary skill in the art to combine the nail plate in Williams with the mounting portion of the first sidestep portion in Colonias. One would have been motivated to make such a modification because nail plates would omit the need to separately carry fasteners (e.g. nails) and would simplify attaching the strap to the item to be connected.

Regarding Claim 47, Colonias discloses the claimed invention except that the mounting portion of the second sidestep portion (from Claim 43) comprises a nail plate. Williams discloses a connecting strap (10) where the mounting portion of the second sidestep portion (25) comprises a nail plate (35, 37). It would have been obvious at the time the invention was made to a person having ordinary skill in the art to combine the nail plate in Williams with the mounting portion of the second sidestep portion in Colonias. One would have been motivated to make such a modification because nail plates would

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omit the need to separately carry fasteners (e.g. nails) and would simplify attaching the strap to the item to be connected.

Regarding Claim 50, Colonias discloses the claimed invention except that the mounting portion of the first sidestep portion (from Claim 49) comprises a nail plate. Williams discloses a connecting strap (10) where the mounting portion of the second sidestep portion (25) comprises a nail plate (35, 37). It would have been obvious at the time the invention was made to a person having ordinary skill in the art to combine the nail plate in Williams with the mounting portion of the first sidestep portion in Colonias. One would have been motivated to make such a modification because nail plates would omit the need to separately carry fasteners (e.g. nails) and would simplify attaching the strap to the item to be connected.

Allowable Subject Matter

5. Claims 54 and 56-66 are allowed.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William V. Gilbert whose telephone number is 571.272.9055. The examiner can normally be reached on Monday - Friday, 08:00 to 17:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be

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reached on 571.272.6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

WVG

12/16
02/08/06


Carl D. Friedman
Supervisory Patent Examiner
Group 3600